No. 80-2078

IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

Supreme Court, U.S.
FILED
JUN 19 1981
ALEXANDER L. STEVAS,
CLERK

DAMES & MOORE, partnership,

Petitioner,

—v.—

DONALD T. REGAN, THE SECRETARY OF THE TREASURY OF THE UNITED STATES OF AMERICA, and THE UNITED STATESOF AMERICA,

Respondents,

—and—

BANK MARKAZI IRAN, et al.,

Intervenors.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT BEFORE JUDGMENT

BRIEF OF 26 IRANIAN COMMERCIAL BANKS AS *AMICI CURIAE* (MOTION TO INTERVENE PENDING)

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QUESTIONS PRESENTED

1. Was the President empowered, under Article II of the Constitution and in light of the long-established practice of presidential settlement of claims of American nationals against foreign governments, to suspend claims against Iran and its instrumentalities as part of an overall settlement of an international crisis?

2. Was the President empowered, under the Constitution, the International Emergency Economic Powers Act of 1977 ("IEEPA"), and the Hostage Act of 1868, to nullify prejudgment attachments issued against Iranian assets, where such attachments had been obtained pursuant to a revocable license and only after the President had exercised his IEEPA powers on November 14, 1979 to freeze Iranian assets?

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STATEMENT OF THE CASE AND INTEREST

This brief is filed in support of the decision below on behalf of 26 Iranian commercial banks[1] which on June 12, 1981

1 Bank Melli Iran, Industrial Credit Bank, Industrial and Mining Development Bank of Iran, International Bank of Iran, Agricultural Development

sought leave to intervene in this proceeding. That motion is still pending before the Court and this brief is submitted by the 26 banks as proposed intervenors and as *amici curiae*. In the event the Court denies the motion to intervene, we respectfully request that this brief be treated as one submitted on behalf of the 26 banks as *amici curiae*.

The 26 Iranian commercial banks were named as parties defendant in the underlying action originally brought in late 1979 in Los Angeles by petitioner Dames & Moore against them, the Atomic Energy Organization of Iran, the Government of Iran, Bank Markazi Iran (Iran's Central Bank), and one separately represented Iranian commercial bank, Bank Saderat Iran. *Dames & Moore v. Atomic Energy Organization of Iran*, No. CV 79-04918 LEW (C.D. Cal.). The action now before this Court, *Dames & Moore v. Regan*, was commenced in the same court and before the same judge on April 28, 1981 to challenge the validity of the Declarations signed in Algeria on January 19, 1981 (the "Algerian Declarations") and the various executive orders and regulations issued thereafter to implement in part those diplomatic accords. On May 28, 1981, Judge Laughlin Waters entered a single ruling applicable to both of the Dames & Moore suits, as well as to parallel suits brought by another claimant.[2] His ruling dismissed the suits against Secretary Regan and the United States, vacated the attachments in the underlying litigations, and stayed further proceedings.

Bank of Iran, Bank of Tehran, Agricultural Cooperative Bank of Iran, Bank Bazargani Iran, Bank Bimeh Iran, Bank Iranshahr, Bank Dariush, Bank Kar, The Bank of Iran and the Middle East, Bank of Omran, Bank Pars, Bank Rafah Kargaran, Bank Sakhteman, Bank Sanaye Iran, Bank Sepah, Bank Shahryar, Banque Etebarate Iran, Development and Investment Bank of Iran, Distributors Cooperative Credit Bank, The Foreign Trade Bank of Iran, Iranians' Bank, and Mortgage Bank of Iran.

In compliance with Rule 28.1 of the Rules of the Supreme Court, we note that Bank Mellat, Bank Tejarat, Irano British Bank, Mercantile Bank of Iran and Holland, International Bank of Iran and Japan, and Iran Arab Bank may be considered affiliates of certain of the 26 banks listed above.

2 *Daniel, Mann, Johnson & Mendenhall v. Regan*, No. CV 81-1100 LEW (C.D. Cal.), and *Daniel, Mann, Johnson & Mendenhall v. Iran*, No. CV 80-277 LEW (C.D. Cal.).

Prior to January 19, 1981, the Iranian commercial banks had moved to dismiss the underlying action on the grounds that the banks were strangers to the commercial dispute, that neither the Foreign Sovereign Immunities Act of 1976, 28 U.S.C. §§ 1330, 1391(f), 1441(d), 1602-11 (the "FSIA"), nor any other body or principle of law permitted jurisdiction over foreign entities or attachment of their assets solely on the grounds that they were "agents or instrumentalities" of the same foreign government which allegedly controlled the party of whose conduct plaintiff complained, that there was no other basis for bringing the Iranian commercial banks into the litigation, and that the Los Angeles court lacked personal jurisdiction over the bank defendants. Although these issues were briefed and argued at length, Judge Waters on January 20, 1981, denied the banks' motion without written or oral opinion.

On January 19, 1981, the United States and Iran entered into the Algerian Declarations resolving the hostage crisis. The Declarations also provided for vacation of the attachments against Iranian assets, for termination of the various Iranian litigations and for resolution—with certain exceptions—of claims against Iran through international arbitration proceedings. Awards in those proceedings are to be secured by a billion dollar fund which is to be created out of the attached Iranian assets and which is to be maintained at a level of $500 million by Iran until all awards of the arbitral tribunal are satisfied.

The interest of the Iranian commerical banks in this proceeding is plain. They constitute the vast majority of the defendants named in the underlying action. Their assets are subject to many of the attachments whose continuance is at issue here. Several of the Iranian commercial banks, including Bank Melli Iran, are, in addition, garnishees served with writs of attachment with respect to assets of other Iranian entities.

The Iranian commercial bank defendants argued the validity of the Declarations and of the implementing Executive Orders to Judge Waters, both in the underlying action and in the related suit Dames & Moore brought against Secretary Regan and the United States. And they have briefed and argued these

same issues in the Courts of Appeals for the District of Columbia and Second Circuits, as well as before a number of District Courts.

SUMMARY OF ARGUMENT

I. Presidential authority to settle claims of American nationals against foreign governments is inherent in the executive power under Article II of the Constitution, and is confirmed by long-established practice. We draw together in this brief and its addendum more than 165 instances of presidential claims settlements, ranging in time from the Jay Treaty of 1794 to the China Claims Settlement of 1979.

This historical record demonstrates that the power to settle claims does not depend upon the consent of private claimants whose interests might be affected by the settlement process. As shown in this Court's decision in *United States v. Schooner Peggy*, 5 U.S. (1 Cranch) 103 (1801), the foreign policy needs of the Nation have sometimes required sacrifice of individual claims.

This long and consistent historical pattern was not scrapped when Congress in 1976 enacted the FSIA. The FSIA worked certain procedural changes, principally placing determination of sovereign immunity in the courts. But, there is no evidence that Congress or the Executive thereby intended to strip the President of his claims settlement power. Nor is there reason to believe that continuation of that power, exercised in 1979 with respect to China claims, is inherently inconsistent with life under the FSIA.

Neither settlement of the claims against Iran, nor vacation of the prejudgment attachments has deprived federal courts of their Article III jurisdiction. The jurisdiction of the courts has not been challenged. Rather, through the Algerian Declarations, the law to be applied by the courts in these cases has changed. The courts must apply that changed law, vacate the attachments, and suspend the claims.

II. Presidential authority to nullify the prejudgment attachments here exists not only under Article II, but rests as well

upon express statutory mandates provided by Congress in the International Emergency Economic Powers Act of 1977, 50 U.S.C. § 1701 et seq. ("IEEPA") and the Hostage Act of 1868, 22 U.S.C. § 1732 (the "Hostage Act"). IEEPA explicitly states that the President may "direct and compel, nullify, void, prevent or prohibit" the "acquisition," "use," "transfer" or "exercising" of any "right, power or privilege with respect to . . . any property in which any foreign country . . . has any interest." The statutory language makes clear that the power of the President is not confined to the ability to freeze assets, but includes authority to unfreeze them.

The prejudgment attachments made possible by the President's freeze order, were obtained by petitioner and other claimants under a revocable license. Given this Court's decision in *Orvis v. Brownell*, 345 U.S. 183 (1953), such attachments created no rights that would survive revocation of the license.

The Hostage Act provides an additional, and an alternative, basis for the President's action vacating the attachments. That statute authorized the President to take any action he thought necessary to obtain the release of citizens made hostage abroad. He froze Iran's assets, licensed commencement of suit and prejudgment attachments, then—when other steps failed to free the hostages—negotiated a thaw of the freeze and return of Iran's assets.

Not only did the President act under express statutory authority, he did so with the apparent acquiescence of Congress. As required by IEEPA, the President regularly reported to Congress on the steps he was taking under IEEPA to resolve the crisis, including vacation of the prejudgment attachments and suspension of claims. At no time has Congress expressed disapproval.

ARGUMENT

The authority of the Executive Branch to vacate prejudgment attachments obtained pursuant to revocable licenses after the November 14, 1979 blocking order, to direct the transfer of Iranian assets to the Federal Reserve, and to suspend claims

against Iran and its governmental entities has been expressly recognized by the only two Courts of Appeals to reach the merits of these issues. *American International Group, Inc. v. Islamic Republic of Iran*, No. 80-1779 (D.C. Cir. June 5, 1981) ("*AIG*"); *Chas. T. Main International, Inc. v. Khuzestan Water & Power Authority*, No. 80-1027 (1st Cir. May 22, 1981) ("*Main*"). Both appellate courts found that the language, purpose and structure of IEEPA empowered the Executive Branch to nullify prejudgment attachments which its earlier blocking order had made possible and which subsequent revocable licenses authorized. Moreover, both courts concluded that the foreign affairs powers of the Executive Branch under Article II of the Constitution—viewed against an established tradition of presidential settlements of private claims against foreign governments—justified suspension of claims in the circumstances present.[3] The Hostage Act served as additional authority for the President's actions, according to a majority of the panel in *AIG*.

We discuss below these three bases for the President's actions. We note, preliminarily, the political context in which those actions were taken. Faced with an international crisis of unquestioned magnitude, the President successfully used his statutory power over foreign assets held in this country, initially to freeze those assets, and subsequently to arrange for their transfer out of this country. He thereby accomplished a peaceful resolution of a tense situation which he had termed "an unusual and extraordinary threat to the national security, foreign policy and economy of the United States . . . ." Exec. Order No. 12,170, 44 Fed. Reg. 65,729 (1979), *reprinted in* 50 U.S.C. § 1701 (1981). The President formally apprised Congress, as required by IEEPA, of the steps taken to stabilize and then to resolve the crisis. He reported to Congress on the initial

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[3] It is the position of the Iranian commercial banks that the Algerian Declarations require not merely the "suspension" of pending litigation proposed by the United States, but immediate termination of such litigation. Resolution of this difference in interpretation may not be undertaken by the courts of the United States. The Algerian Declarations provide that all disputes between the two governments concerning the meaning and implementation of the Algerian Declarations must be referred to the International Tribunal established by the United States and Iran.

implementation of the freeze, on its continuation six months and one year later, and advised the Congress of the terms of the Algerian Declarations and the implementing executive orders. Although explicitly authorized to do so by 50 U.S.C. § 1706(b), Congress has indicated no disapproval. The context, therefore, is that of an international crisis resolved by a procedure contemplated, and acquiesced in, by the Congress. The 1977 IEEPA legislation worked precisely as intended. This outcome, as well as the statutory language, judicial precedents and diplomatic history to which we now turn, fully justify the governmental action petitioner comes before this Court to challenge.[4]

I. THE PRESIDENT'S POWER UNDER ARTICLE II TO SETTLE CLAIMS OF AMERICAN NATIONALS AGAINST FOREIGN GOVERNMENTS IS CONFIRMED BY LONG ESTABLISHED PRACTICE.

This Court has expressly recognized the "plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations." *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 320 (1936). The President controls and conducts America's foreign affairs, serves as Commander in Chief, receives ambassadors and envoys, and recognizes foreign governments. It has long been established that, among all the President's Article II powers, his foreign affairs power is at once the broadest and the least amenable to judicial review.

The power of the President to settle claims of American nationals against foreign sovereigns is incident to the executive authority vested in the President by Article II. In *United States v. Pink*, 315 U.S. 203 (1942), and in *United States v. Belmont*, 301 U.S. 324 (1937), this Court specifically upheld the constitutionality of the Litvinov Assignment with the Soviet Union as a means for settling outstanding claims between citizens of the two countries in connection with recognition of the Soviet

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4 We do not brief the issue whether, should a "taking" occur, petitioner would be entitled to compensation from the United States. We understand that this point is addressed in other briefs being filed with the Court.

government. See also *Ozanic v. United States*, 188 F.2d 228 (2d Cir. 1951). In *Pink*, the Court explained:

> "[Executive] authority is not limited to a determination of the government to be recognized. It includes the power to determine the policy which is to govern the question of recognition . . . Power to remove such obstacles to full recognition as settlement of claims of our nationals . . . certainly is a modest implied power of the President who is the 'sole organ of the federal government in the field of international relations.' *United States v. Curtiss-Wright Corp.*, *supra*, p. 320. Effectiveness in handling the delicate problems of foreign relations requires no less." 315 U.S. at 229 (citations omitted).

Justice Frankfurter, concurring in *Pink*, stated: "That the President's control of foreign relations includes the settlement of claims is indisputable." 315 U.S. at 240. And, as Judge Learned Hand wrote in *Ozanic*, 188 F.2d at 231:

> "The Constitutional power of the President extends to the settlement of mutual claims between a foreign government and the United States, at least when it is an incident to the recognition of that government; and it would be unreasonable to circumscribe it to such controversies. The continued mutual amity between the nation and other powers again and again depends upon a satisfactory compromise of mutual claims; the necessary power to make such compromises has existed from the earliest times and been exercised by the foreign offices of all civilized nations." (footnote omitted).

A. The President Has Settled Such Claims For Nearly 200 Years.

The President's power to settle claims by American nationals against foreign nations is a necessary and logical concomitant to his foreign affairs powers. For nearly 200 years, presidents have, in fact, by both executive agreement and treaty compromised the claims of American nationals against foreign sovereigns and their citizens. We attach as an addendum to this brief a chart of approximately 165 such executive agreements

and treaties entered into by the United States to compromise and settle claims of American nationals against foreign sovereigns and citizens of foreign nations. As this "Barr chart" demonstrates,[5] the United States has made such agreements throughout its history. These agreements encompass all manner of claims by American nationals—commercial contract, tort and expropriation—and they have been made without regard to the immunity or lack thereof of the defendant sovereign or foreign national. As the *AIG* court, which had the Barr chart before it, recently held:

> "We find that there is a long-standing practice of settling private American claims against foreign governments through executive agreements." *AIG*, slip op. at 28.

1. The Jay Treaty And Some 19th Century Agreements.

As early as the Jay Treaty of 1794, the United States established a mixed commission, consisting of nationals of both countries, to resolve, among other things, claims of American citizens based on the illegal seizure of their ships and other property by the British government. 1 Malloy, *Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States and Other Powers* 590 (1910). In the 190 years since the Jay Treaty, numerous claims of American nationals based on expropriation or nationalization of their property have been settled by treaty or executive agreement. Approximately one hundred such claims agreements relating to nationalizations, seizures and expropriations are listed in the Barr chart.

Such agreements have also been used to settle contract claims against foreign governments. In 1819, for example, the United States concluded a treaty with Spain renouncing all claims for damages suffered by the United States or its citizens prior to the date of the treaty, including certain contract claims for goods allegedly sold and delivered to Spain by American nationals. See *Meade v. United States*, 76 U.S. (9 Wall) 691

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5 So-called here because researched and prepared by Michael H. Barr, at the suggestion of, and in cooperation with, Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., counsel for Bank Markazi Iran.

(1869), addressing the Spanish treaty. And in 1902, the Executive, without congressional ratification, concluded an agreement for the arbitration and payment of certain accounts and goods sold and delivered claims by J. Sala & Co., a New York company, against the Dominican Republic. "Arbitration of Sala Claim," reported in 7 Bevans, *Treaties and Other International Agreements of the United States of America 1776-1949* at 184 (1974).

2. Post-War Agreements With East European Nations And The Recent Agreement With China.

Since World War II, the President has negotiated at least 13 executive agreements settling claims of American nationals against foreign nations. For example, in executive agreements made in the 1960's with Poland, Rumania and Bulgaria, in 1973 with Hungary, and in 1979 with China, the United States, in return for lump sum payments, settled a variety of expropriation and commercial contract claims allegedly due American nationals from those nations or companies nationalized by them. Thus, in 1960, the United States explicitly settled and discharged claims of American nationals against Poland and its citizens accruing on or before the date of the agreement and arising out of "the nationalization or other taking by Poland of property and of rights and interests in and with respect to property," as well as "debts owed by enterprises which have been nationalized or taken by Poland." Agreement Between the Government of the United States of America and the Government of the Polish People's Republic Regarding Claims of Nationals of the United States, art. II (a,c), 11 U.S.T. 1953, T.I.A.S. No. 4545 (July 16, 1960).

Similarly, the 1960 Rumanian claims settlement agreement discharged Rumania and its nationals from all "[c]laims for the nationalization, compulsory liquidation, or other taking, prior to the date of this Agreement of property, rights and interests of nationals of the United States of America in Rumania." Also discharged were "[c]laims predicated upon obligations expressed in currency of the United States of America arising out of contractual or other rights acquired by nationals of the United States of America prior to September

1, 1939, and which became payable prior to September 15, 1947." Agreement Between the United States of America and the Rumanian People's Republic Relating to Financial Questions Between the Two Countries, art. I, para. 1(b,c), 11 U.S.T. 317, T.I.A.S. No. 4451 (Mar. 30, 1960).

The Bulgarian agreement settled and discharged "[c]laims of nationals of the United States of America for the nationalization, compulsory liquidation or other taking of property and of rights and interests (direct and indirect) in and with respect to property prior to the effective date of this Agreement," as well as commerical contract claims. Agreement Between the Government of the United States of America and the Government of the People's Republic of Bulgaria Regarding Claims of United States Nationals and Related Financial Matters, art. I, para. 1(b,c), 14 U.S.T. 969, T.I.A.S. No. 5387 (July 2, 1963).

The Hungarian agreement similarly discharged both commercial contract claims of the United States or United States nationals against Hungary or Hungarian nationals, and claims based on "property, rights and interests affected by Hungarian measures of nationalization, compulsory liquidation, expropriation, or other taking on or before the date of this Agreement, excepting real property owned by the Government of the United States." Agreement Between the Government of the United States of America and the Government of the Hungarian People's Republic Regarding the Settlement of Claims, art. 2, para. 2(1), 24 U.S.T. 522, T.I.A.S. No. 7569 (Mar. 6, 1973).

This historical practice of settling claims of American nationals against foreign nations by executive agreement was not interrupted by passage of the FSIA in 1976. In 1979, the President concluded an executive agreement with the People's Republic of China that settled "the claims of the USA and its nationals . . . against the PRC arising from any nationalization, expropriation, intervention, and other taking of, or special measures directed against, property of nationals of the USA on or after October 1, 1949 and prior to the date of this Agreement." Agreement Between the Government of the United States of America and the Government of the People's Republic of China Concerning the Settlement of Claims, art. I, para. a, T.I.A.S. No. 9306 (May 11, 1979).

These agreements, along with the other agreements and treaties described in the Barr chart, form part of what, in another context, Justice Frankfurter called "a systematic, unbroken, executive practice, long pursued to the knowledge of the Congress and never before questioned," and which "may be treated as a gloss on 'executive Power' vested in the President by § 1 of Art. II." *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 610-11 (1952) (Frankfurter, J., concurring). They embody the uncontradicted understanding of the Executive and the Congress as to the reach of Article II and the on-going need, demonstrated over nearly two centuries, for broad presidential power to settle claims of American nationals against foreign sovereigns and their nationals in pursuit of the Nation's foreign policy interests.

B. The President's Authority To Settle Claims Is Exercised To Advance National Foreign Policy Objectives; It Exists Independent Of The Request Or Consent Of Individual Claimants.

Petitioner, like other American claimants, has suggested that the long established practice of presidential settlement of private claims against foreign governments and their nationals ceased to be relevant upon enactment of the FSIA in 1976. The argument is, that before 1976, claimants against foreign governments and their nationals faced so many difficulties in enforcing their claims in American courts that they lost nothing when their claims were compromised or disposed of by presidential action. Indeed, it is suggested that such presidential settlements were tolerated as a convenience for American claimants, and may be said to have existed at their sufferance.

This position does not withstand analysis. Private claimants cannot, after all, confer upon the Executive Branch and the President powers not granted to them by the Constitution. Nor is there evidence in the historical record to suggest that presidential settlements were tolerated only because no claimant objected, or that all claimants granted some form of waiver relinquishing their "right" to object to otherwise unconstitutional action. Many claimants, no doubt, have preferred presidential settlement; others would have preferred to litigate.

What we do know, for example, is that the agreement enforced by the decision in *United States v. Schooner Peggy*, 5 U.S. (1 Cranch) 103 (1801), deprived American claimants of valuable rights. As shown below, private interests of the claimants were plainly sacrificed to the broader national interest of peace with France. The validity of such presidential action has never been made subject to a poll of claimants.

The fact is that, as in the present case, settlement of claims between foreign governments and American nationals frequently involves resolution of larger political and military disputes between nations. One well known example is the recognition of Soviet Russia in 1933 through an executive agreement, a major part of which was the claims settlement discussed in *United States v. Pink*, 315 U.S. 203 (1942), and *United States v. Belmont*, 301 U.S. 324 (1937). Presidential power to compromise private claims must be at its maximum when international crises require solution. As the Court of Appeals for the First Circuit said in the *Main* decision:

> "It is not difficult to understand why it has become generally accepted that the President possesses power, at least in times of crisis in our international relations, to settle the claims of United States nationals against a foreign government." *Main,* slip op. at 19.

To resolve international disputes, the President has sometimes acted alone in disposing of private claims. See *Pink* and *Belmont*. Sometimes he has worked in conjunction with Congress. See *Schooner Peggy, supra*. But whether the President acted on his own or in conjunction with Congress, his power to settle claims derives from the need to act effectively in foreign affairs. The power is not merely an adjunct of the understandable desire of private claimants to maximize their recoveries on commercial claims against foreign nations. As Professor Henkin noted, "[t]he United States has sometimes disposed of the claims of its citizens without their consent, or even without consultation with them, usually without exclusive regard for their interests, as distinguished from those of the nation as a whole." L. Henkin, *Foreign Affairs and the Constitution*, 262-63 (1972).

That this historically vindicated power to settle claims serves the Nation's foreign policy interests, rather than the pecuniary interests of private claimants, is well illustrated by the factual setting to Chief Justice Marshall's decision in *Schooner Peggy, supra*. An American ship had taken the French-owned Schooner Peggy as a prize. Seizure of the French vessel had been authorized by presidential instructions "to take any armed French vessel." 5 U.S. at 103. The United States sued on behalf of itself and the crew to condemn the French ship. The issue thereafter litigated in the lower court was whether the particular French vessel was armed and on the high seas, so as to be within the instructions given the commander of the American ship and, therefore, rightly seized. The Circuit Court of Appeals concluded that the taking was lawful and ordered the ship condemned. Had that decision been affirmed, the crew of the American ship would have been entitled to retain a portion of the prize. See 5 U.S. at 103.

However, while the Circuit Court decision was on appeal, a convention, previously entered into between the United States and France, was ratified by the President. Convention of Peace, Commerce and Navigation, Sept. 30, 1800, as amended, February 18, 1801 (effective Dec. 19, 1801). 1 Malloy, *Treaties, Conventions, International Acts, Protocols and Agreements Between the United States and Other Powers* 496 (1910). The fourth article of this convention provided that "property captured, and not yet definitely condemned . . . shall be legally restored. . . ."

This convention represented one portion of a complex claims settlement worked out over a period of years between the United States and France in order to resolve disputes which had arisen between the two countries as a result of alleged treaty violations by each nation. Since the bulk of the alleged French violations related to the taking of American vessels, overall settlement of the dispute required resolution of the claims of the various American ship owners as a pre-condition to the larger settlement between the countries.

To satisfy the French on this point and to induce them to drop their substantial claims against the United States for its own treaty violations, the President renounced and thereby

eliminated all claims of private American ship-owners whose ships had been seized by the French. As the Court of Claims later put it, "in the negotiation of 1800 we used 'individual' claims against 'national' claims, and the set-off was of French national claims against American individual claims." *Gray v. United States*, 13 Ct. Cl. 340, 392-93 (1886).[6]

It was against this history, set out in detail in the Court of Claims' 1886 decision in *Gray, supra*, that this Court concluded in 1801 that the intervening convention required reversal of the Circuit Court. Speaking for the Court, Chief Justice Marshall wrote that "if, subsequent to the judgment, and before the decision of the appellate court, a law intervenes and positively changes the rule which governs, the law shall be obeyed or its obligation denied." 5 U.S. at 110. The Court recognized the hardship this rule worked on the private parties who had seized the French ship. It held, however, that if private rights were infringed, it was a political question for the political branches of the Government, rather than the Court. In words particularly relevant to this dispute, Chief Justice Marshall concluded:

> "It is true that in mere private cases between individuals, a court will and ought to struggle hard against a construction which will, by a retrospective operation, affect the rights of parties, but in great national concerns, where individual rights, acquired by war, are sacrificed for national purposes, the contract making the sacrifice ought always to receive a construction conforming to its manifest import; and if the nation has given up the vested rights of its citizens, it is not for the court, but for the government, to consider whether it be a case proper for compensation." *Id.*

Recent history does not render irrelevant the decision in *Schooner Peggy*, or the consistent historical practice. The Executive's power derives—as it always has—primarily from foreign policy concerns of the Nation, not the financial in-

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6 In 1886, the Court of Claims in *Gray* was still adjudicating issues arising out of the French convention enforced by the *Schooner Peggy* Court 85 years earlier.

terests of private claimants. The settlement agreements set out in the Barr chart—from the Jay Treaty to the China Claims Settlement—form part of the relevant historical record.

C. Enactment Of The FSIA Did Not Revoke The President's Power To Settle Private Claims.

Some contend that enactment of the FSIA in 1976 renders the long history of claims settlement irrelevant. Petitioner's argument seems to be that the Executive's pre-1976 authority to file "suggestions of immunity" rendered wholly illusory private claims against foreign governments, thereby taking the sting out of presidential claims settlements. Petitioner suggests that once the Executive was deprived of authority to file such "suggestions of immunity," the value of private claims against foreign governments ceased to be illusory, and can no longer be the subject of presidential compromise— even where necessary to resolve international crises. In a variant of the argument, Judge Duffy, in *Marschalk Co. v. Iran National Airlines Corp.*, No. 79 Civ. 7035 (S.D.N.Y. June 11, 1981), concluded that because the FSIA restructured the manner in which foreign governments are sued in American courts, the allegedly new litigation mode is somehow logically inconsistent with continued existence of presidential power to compromise claims.

There is, in fact, nothing either in the language of the FSIA, in its legislative history, or in the subsequent legislative history of IEEPA or its language, to suggest that Congress shared either of these views. Nor is there any substance to the suggestion that any changes wrought by enactment of the FSIA in 1976 are inconsistent with continuance of presidential power to compromise claims, particularly where necessary to resolve international crises.[7]

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[7] Indeed, at the same time the Executive branch sponsored passage of the FSIA, officials of the Departments of State and Justice testified in Congress against other legislation—never passed—proposing limits on the President's power to make executive agreements. See Hearings Before Senate Subcommittee on Separation of Powers of the Committee on the Judiciary, Congressional Oversight of Executive Agreements, 94th Cong., 1st Sess. (1975). See also Addendum to Brief of Bank Markazi Iran.

Petitioner's argument vastly exaggerates the impact of the FSIA. Suing foreign governments, and recovering on judgments adverse to them, has never been easy. Despite the FSIA, a claimant's lot, like the proverbial policeman's, remains an unhappy one. The Iranian litigation proves the point. Absent the freeze, which prevented a withdrawal of Iran's assets in the United States, no claimant would have been assured satisfaction of judgments obtained against Iran. The FSIA itself exempts central banks from any form of attachment (28 U.S.C. 1611(b)(1)), and Bank Markazi's assets form a large part of those frozen in 1979. Moreover, even under the FSIA, sovereign immunity bars suits against foreign governments unless the defendant has commercial contacts with the United States which have a nexus to the controversy. 28 U.S.C. § 1605(a)(2). Even presence in the forum by itself will not support assertion of jurisdiction. See, e.g., *Thos. P. Gonzales Corp. v. Consejo Nacional Produccion de Costa Rica*, 614 F.2d 1247, 1255 (9th Cir. 1980). And the doctrines of act of state and sovereign immunity remain potent barriers to effective litigation against foreign sovereigns. Accordingly, the sea change assumed by claimants to have occurred in 1976 never happened.[8]

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8 Consider, for example, the underlying Dames & Moore action. It arises out of an alleged contract between Dames & Moore International, S.R.L. ("Dames International"), a Venezuelan limited liability company and the Atomic Energy Organization of Iran ("AEOI"), under which the Venezuelan company was to provide site consulting services in Iran with respect to a nuclear power plant to be constructed there. The 27 Iranian commercial banks named as defendants were strangers to the contract and to the transaction. They were only named in the underlying action as alleged "alter egos" of the defendant AEOI when petitioner sought assets to attach. The banks contended below that the district court lacked subject matter and personal jurisdiction over them (most of the bank defendants had no contact with the United States, and none had any contact here with the requisite nexus to the transaction), and that under the FSIA, and other authorities, the lawsuit and attachments granted against them were untenable. Their extensively briefed and argued motion to dismiss on these grounds was denied by the district court without opinion.

Consider also the recent decision in *Verlinden B.V. v. Central Bank of Nigeria*, No. 80-7413, slip. op. (2d Cir. April 16, 1981). In *Verlinden*, the court held that the FSIA—as a matter of constitutional law—cannot establish subject matter jurisdiction over a claim brought by an alien plaintiff, such as Dames International, against a foreign state, its agencies or instrumentalities, such as Iran, the AEOI, and the banks. Petitioner sued below as the assignee

Nor did passage of the FSIA in 1976 purport to bring about any fundamental change in the President's centuries-old power to resolve international claims under Article II of the Constitution. It did not address that issue at all. What it did was to codify certain elements of the restrictive theory of sovereign immunity.

The FSIA confers no "substantive" rights upon a plaintiff. As the House Report accompanying the FSIA states: "The bill is not intended to affect the substantive law of liability." H.R. Rep. No. 94-1487, 94th Cong., 2d Sess. 12, *reprinted in* [1976] U.S. Code Cong. & Ad. News 6604, 6613. And as the Court of Appeals for the Second Circuit recently held, the FSIA does not "create new federal causes of action . . . ." *Verlinden B.V. v. Central Bank of Nigeria*, No. 80-7413, slip op. at 2566 (2d Cir. Apr. 16, 1981); accord, *AIG*, slip op. at 30-32; *Main*, slip op. at 20-22. The claims of petitioner in the underlying action do not in any sense arise under the FSIA. See *Verlinden*, *supra* at 2565-69.

Prior to the FSIA, the federal courts had subject matter jurisdiction over claims against foreign states under 28 U.S.C. § 1332(a)(2)(1976), as it then read.[9] See *Ex Parte Peru*, 318 U.S. 578, 587-88 (1943). But that grant of subject matter jurisdiction was never held to limit the President's constitutional and statutory power to settle claims against foreign sovereigns and its reenactment in the FSIA does not overrule 200 years of history on this issue. See *AIG*, slip op. at 30-32; *Main*, slip op. at 20-22.

While petitioner is correct in asserting that one aim of the FSIA was to reduce the Executive's role in the sovereign immunity decision, that goal is not inconsistent with the

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of the claim of Dames International. Such an assignment, on the eve of suit, is collusive for purposes of 28 U.S.C. § 1359. Under *Verlinden*, the court below lacked subject matter jurisdiction over the underlying action.

9 28 U.S.C. § 1332(a)(2), in substance unchanged since at least 1875, provided before enactment of the FSIA in 1976:

"The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, and is between . . .

(2) citizens of a State, and foreign states or citizens or subjects thereof."

Algerian Declarations. What the President has done here has nothing to do with sovereign immunity. The Executive Orders apply whether or not the particular Iranian defendant sued is entitled to sovereign immunity. The Executive Orders do not "suggest" immunity; they settle claims.

As the agreements collected in the Barr chart demonstrate, Presidents have made executive agreements and treaties settling all varieties of expropriation and commercial claims, without regard to the immunity or lack thereof of the defendant sovereign or national. They have made such agreements both in the modern era of the so-called restrictive theory of immunity, as well as during the time when the United States expressly adhered to a more absolute theory of sovereign immunity. The practice has not been changed, either intentionally or inadvertently, by the FSIA.

D. The Long Established Power To Settle Claims Does Not Infringe The Article III Jurisdiction Of The Federal Courts.

Neither exercise by the President of his constitutional powers under Article II to suspend petitioner's lawsuit, nor his constitutional and statutory authority under IEEPA and the Hostage Act (discussed in Point II, *infra*) to void the prejudgment attachments petitioner obtained, offends principles of separation of powers or intrudes upon Congress' power to regulate the Article III jurisdiction of the federal courts. The Algerian Declarations do not purport to regulate the jurisdiction of the federal courts. Rather, the President has compromised and settled claims of American nationals against a foreign sovereign—something which presidents have been doing for nearly 200 years, without regard to the existence of federal court subject matter jurisdiction over such disputes. See *AIG*, slip op. at 24; *Main*, slip op. at 16-22. As shown in section C above, this time-honored practice was in no way affected by enactment of FSIA.

The Algerian Declarations are, in part, a claims settlement agreement. They establish a new rule of law requiring termination of this case and vacation of the attachments. It has been recognized, at least since *Schooner Peggy*, that the courts must

apply such a new rule in pending actions. In *Schooner Peggy*, while appeal from the judgment of condemnation was pending, the United States entered into a treaty with France providing that property captured and not yet "definitively condemned" must be restored. The Supreme Court set aside the lower court's judgment and ordered return of the French ship— which had been condemned by the lower court—because:

> "If subsequent to the judgment, and before the decision of the appellate court, a law intervenes and positively changes the rule which governs, the law must be obeyed, or its obligations denied." 5 U.S. at 110.

The principle remains a valid one. The law has changed. The underlying litigation—and the others against Iran and its instrumentalities—should be suspended.

II. THE PRESIDENT'S NULLIFICATION OF ALL ATTACHMENTS AGAINST IRANIAN ASSETS WAS A PROPER EXERCISE OF EXPRESS STATUTORY AUTHORITY.

In adhering to the Algerian Declarations, Presidents Carter and Reagan derived their authority not only from the President's constitutional role in foreign affairs, but also from two explicit congressional delegations of power. Here, the President's actions are supported by explicit congressional delegations under IEEPA and the Hostage Act. In resolving the hostage crisis and in attempting to restore relations with Iran, the President acted at the very zenith of his constitutional powers. Where "the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate." *Youngstown Sheet & Tube Co. v. Sawyer, supra*, 343 U.S. at 635 (Jackson, J., concurring) (footnote omitted).

A. The Language, Purpose And Structure Of IEEPA Empower The Executive To Nullify The Attachments.

1. The Statutory Mandate Is Unabmiguous.

In IEEPA, Congress in 1977 conferred upon the President power to:

> "investigate, regulate, direct and compel, nullify, void, prevent, withholding, use, transfer, withdrawal, transportation, importation or exploration of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest." 50 U.S.C. § 1702(a)(1)(B).

The quoted statutory language was derived from § 5(b) of the Trading with the Enemy Act ("TWEA"), 50 U.S.C. App. § 5(b)—where it continues in force. It has withstood every constitutional test. See *United States v. Yoshida International, Inc.*, 526 F.2d 560, 573 n.16 (C.C.P.A. 1975). The identical emergency powers specified in both acts are necessarily comprehensive and should be liberally construed. As this Court has said, they are to "be given generous scope." *Propper v. Clark*, 337 U.S. 472, 481 (1949).

IEEPA explicitly provides that the President may "direct and compel, nullify, void, prevent or prohibit" the "acquisition," "use," "transfer" or "exercising" of any "right, power or privilege with respect to . . . any property in which any foreign country . . . has any interest." This is more than a mere power to "freeze." The Act gives the President the power first to freeze assets in order to maintain the statuts quo, and then to "direct and compel" the "transfer" of such foreign assets for the purpose of resolving such emergencies. Had Congress intended to give the President no more than a blocking power, it would have omitted the words "investigate," "regulate," "direct," "compel," "nullify" and "void" from IEEPA.

It is true that Congress enacted IEEPA in 1977 as a peacetime alternative to the TWEA, and that during peacetime declared emergencies, the President lacks power to "vest" or take title to foreign assets—a power that he continues to

possess in wartime under the TWEA. But IEEPA expressly grants the President the power to "direct and compel" the transfer of assets, the power to "nullify [and] void" the acquisition or use of "any right power or privilege" with respect to assets, and the power to "prevent or prohibit" the acquisition or exercising of such property interests.[10] As one court recently concluded,

> "IEEPA, however, did not significantly restrict the President's powers during international emergencies. Section 1702 of the IEEPA is, except for stylistic changes, a reenactment of the powers previously conferred on the President by § 5(b) of the TWEA. The only substantive change is the withdrawal of the power to vest assets in an Alien Property Custodian. That power is not sought in this instance and the change is therefore not significant here." *Security Pacific National Bank v. The Government and State of Iran*, slip op. at 25, CV 79-4661RJK (C.D. Cal. Apr. 30, 1981).

The executive orders at issue here carefully track the statutory language of IEEPA. They state that holders of Iranian funds are "licensed, authorized, directed and compelled to transfer" such assets to the Federal Reserve Bank of New York and that "all rights, powers and privileges" relating to Iranian assets derived from any attachment or like proceeding after November 14, 1979 are "nullified." IEEPA explicitly authorized the presidential order directing and compelling this transfer of all Iranian assets. Similarly, IEEPA expressly authorized the President to "void" the exercise of "any right, power or privilege with respect to" Iranian assets. IEEPA definitively rests power in the President to void attachments. A clearer Congressional mandate would, in fact, be difficult to find.

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10 As the Senate report accompanying IEEPA confirms, that statute preserves rather than limits the President's power to resolve American claims against foreign nations. The report states:

"Nothing in this act is intended by the committee to interfere with the authority of the President to continue blocking assets which are presently blocked, *or to impede the settlement of claims of U.S. citizens against foreign countries*." S. Rep. No. 466, 85th Cong. 1st Sess. 5 (1977), *reprinted in* [1977] U.S. Code Cong. & Ad. News 4540, 4544. (emphasis added).

The President has not purported to "vest" title to Iranian assets in the United States; he is not administering those assets as property of the United States. Rather, he has directed and compelled the transfer of assets and is regulating the acquisition of property interests in blocked Iranian assets, as IEEPA expressly authorized him to do.

2. Petitioner's Attachments Were Obtained In The Context Of The President's Exercise Of His IEEPA Powers.

Before petitioner commenced the underlying action or sought any attachment, President Carter, pursuant to his emergency powers under IEEPA, had already blocked the transfer of Iranian assets. The treasury regulations promulgated under the blocking order confirmed that any transfer or acquisition of any interest in Iranian assets by way of attachment or similar process was prohibited and that the license to seek attachments or similar process was conditional and subject to revocation. See, e.g., 31 C.F.R. §§ 535.203, 535.418, 535.502, 535.504.

Once the President had blocked Iran's assets, petitioner's claims to such property were always subject to exercise by the President of the powers available to him under IEEPA. That is the principal teaching of *Orvis v. Brownell*, 345 U.S. 183 (1953), where this Court held that a freezing order prevented a creditor from thereafter acquiring by an otherwise valid judicial attachment any interest or right in property which could be asserted against the Alien Property Custodian under the TWEA. In *Orvis*, the Court did not rely on the *vesting* powers of the TWEA, but rather on the powers to "compel and direct" and "nullify, void, prevent or prohibit" the use or transfer of foreign assets—powers which are granted the President in peacetime under IEEPA. 345 U.S. at 188 n.6.

In *Orvis,* petitioners following the World War II freeze on Japanese assets had brought suit in New York state court against various Japanese nationals who allegedly owed them debts. They obtained valid New York attachments against the assets of Anderson, Clayton & Company, a third party indebted to the Japanese, and thereafter judgments against the Japanese defendants.

The Alien Property Custodian, by *res* vesting orders subsequent to the attachments and judgment, took over the debts owed the Japanese nationals by Anderson, Clayton & Company. Plaintiffs filed a claim seeking return of property in which they claimed an interest. The claim was dismissed by the hearing examiner on the ground plaintiffs lacked the requisite interest. Plaintiffs then sued, alleging that, by virtue of the attachments, they had obtained an "interest, right or title" to the property which had been vested and they could, therefore, properly maintain a suit in the district court under § 9(a) for its return, rather than being relegated to "equitable distribution" under § 34 of the TWEA.

The trial judge agreed. The Second Circuit—a distinguished panel consisting of Judges Augustus Hand, Clark and Frank—198 F.2d 708 (2d Cir. 1952), *sub nom. Orvis v. McGrath* reversed. The court held that "Congress has the power to authorize the nullification of all attachment liens obtained after a freezing order (on the analogy of the effect of bankruptcy on preferences)." *Id.* at 710.

This Court affirmed the conclusion that Orvis had no "right, title or interest" which would entitle him to sue under § 9(a). While concluding that the freeze order did not bar attachment proceedings, the Court held that the order nevertheless prevented a creditor from acquiring by attachment an "interest, right, or title" in the frozen property. 345 U.S. at 188. The Court stated that:

> ". . . [T]he freezing order did have such an effect and that, while it recognized attachment liens insofar as they determined relationships between creditor and enemy debtor, it did not permit the transfer of a property interest in the blocked funds which could be asserted against the Custodian." 345 U.S. at 186-87.

Here, as in *Orvis*, from the moment the President froze Iran's assets, petitioner's attempts at attachment remained subject to the reservation that the President might revoke the license and under IEEPA "nullify, void, prevent or prohibit" or "transfer" interests in the blocked Iranian funds. That is what the President has done. In the words of *Orvis*, "these reservations deprive the assent of much substance; but that

should have been apparent on its face to those who chose to litigate." *Id.* at 187.

3. The President's Orders Have Been Acquiesced In By Congress, Sustained By The Appellate Courts, But Mistakenly Ruled Unconstitutional By Judge Duffy.

The Court of Appeals for the First Circuit in *Main* concluded:

> "Once the blocking order was in place, we do not believe that Main [plaintiff] could obtain such an interest in the blocked assets as would later hamper the President in disposing of them. Main, in fact, proceeded against the 'blocked' Iranian assets only under the provisional Treasury Department license which it had obtained. By the terms of the license and by regulation, Main was prohibited from obtaining a final judgment against the assets or in any other manner levying on the assets to satisfy its claim. In the circumstances, we think Main could acquire no greater 'property interest' than the blocked funds—through 'judicial remedies' or otherwise—than its conditional license and the regulations allowed." *Main,* slip op. at 10 (footnote omitted).

The *AIG* court agreed, stating:

> "In short, we are faced with a situation in which the President is acting pursuant to an unequivocal statutory grant of authority. In this situation, we perceive no erosion of the constitutional principle of separation of powers in upholding the actions of Presidents Carter and Reagan . . ." *AIG,* slip op. at 23 (footnote omitted).

Not only were the President's actions specifically encompassed and authorized by IEEPA, but he has carefully coordinated his actions with the Congress. In issuing the blocking order on November 14, 1979, on each occasion when orders were issued pursuant to the authority of IEEPA, President Carter, and then President Reagan, submitted notice of the action taken to the Congress, as required under the statute. See 50 U.S.C. §§ 1703(b), (c). This included submission of the

terms of the Algerian Declarations and the implementing of Executive Orders. Although specifically authorized by statute to do so, Congress has not sought to reverse, challenge or question the conduct of the President.

Despite this Court's decision in *Orvis*, that to license attachments in the wake of a freeze order might do nothing more than allow claimants to establish relative priorities among themselves, and despite the direct application of *Orvis* to the facts at hand by the *AIG* and *Main* courts, Judge Duffy recently concluded in *Marschalk Co. v. Iran National Airlines Corp., et al.*, No. 79 Civ. 7035 (S.D.N.Y. June 11, 1981), that such a sequence of events somehow created legitimate expectations on the part of claimants that the attached assets would remain in place even were the President to revoke the licenses and order transfer of the assets.

According to Judge Duffy, once a claimant has been licensed to obtain a prejudgment attachment, and has chosen to invest "legal fees" in pursuit of attachments, his rights "vest"—and the President becomes disabled to use a "thaw" as a diplomatic device to free the hostages.[11] That position misstates what a claimant is entitled to believe he obtains under a concededly revocable license, and begs the question of what fruits he has been able to extract prior to revocation.

Given *Orvis*, all that claimants are entitled to expect under the kind of license issued here is a system of "priorities" in the event that the blocking order is one day lifted and the assets freed from the President's IEEPA powers. Judge Duffy, in-

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[11] As Judge Duffy "explained" at pp. 80-81 of his opinion:

"Under the terms of the license herein, plaintiffs were permitted to obtain prejudgment attachments. No conditions were placed on this license other than the fact that the license could be revoked and future attachments prohibited. Thus, the government cannot freely take plaintiffs' attachments any more than it could take away a miner's property interests in minerals which were already mined under a revocable mining license.

"Moreover, in obtaining the attachment it cannot be denied that Marschalk expended large sums of money on attorneys' fees and in obtaining the bond required by New York law. In so doing, it is clear that Marschalk had a reasonable expectation that by relying on the government's action, it would not thereafter have its rights to the attachment nullified by another government action. To argue otherwise means that the government was using the rights and fortunes of individual citizens to create merely another bargaining chip to use in international negotiations."

stead, pressed his analogy of an American national who has been granted a license to extract minerals from federal lands. And he asks whether, upon revocation of such a license, the license holder should be required to "return" any minerals he extracted prior to revocation of the license.

That is not this case. No claimant against Iran has been permitted to extract any "minerals" under his license. Given this Court's decision in *Orvis*, all that a claimant obtained when the President issued the freeze order and the ensuing regulations was *an invitation to stake out his claim* vis-a-vis other potential prospectors. No claimant had any assurance that he would ever be permitted to press his claim to judgment or ever acquire any right to extract real value from the attached assets. Whether claimants should have undertaken the cost of a complaint and attachment procedures was up to them. Not all claimants made that choice. In any event, issuance of the license to obtain prejudgment attachments has not enabled any American claimant to extract any "value" which he is now being called upon to disgorge.

B. The Hostage Act Is An Additional—And Alternative—Basis For The President's Actions.

The Hostage Act of 1868 further supports the President's authority to terminate these lawsuits and to vacate petitioner's prejudgment attachments.[12] The Act was intended to empower the President "to do all he can under the Constitution and laws in every way to secure the release of a citizen." Cong. Globe, 40th Cong., 2d Sess. 4333 (1868) (Remarks of Sen. Williams).

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12 The Hostage Act provides:
"Whenever it has been made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, *and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release*; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress." 22 U.S.C. § 1732 (emphasis added).

The portion of the Act directing the President to use "such means, not amounting to acts of war, as he may think necessary and proper to obtain . . . the release" of any imprisoned American was proposed in an amendment by Senator Williams. In adopting Senator Williams' amendment, the Senate rejected an amendment proposed by Senator Buckalew which would have substituted a milder exhortation that the President was to exert "all his constitutional powers to secure the release of citizens imprisoned abroad." *Id.* at 4330. The Buckalew amendment was regarded as a mere "circumlocution" conferring "nothing in point of fact." *Id.* (Remarks of Sen. Williams).

To secure the release of Americans imprisoned abroad, Congress chose a more express delegation of power. The President was to have every power that the Constitution and Congress might attribute to him, short of the power to make war. A reading of the Congressional debates concerning the Hostage Act reveals that the key disputed issue was whether the statute should merely direct the President to use his own inherent Article II powers to free hostages or whether it should, in addition, delegate powers to accomplish this purpose. Those in favor of delegation were victorious. In support of the bill, Senator Williams noted that the President "is not required to do anything," but that he is "empowered" to do what is "necessary." Among the alternatives mentioned were the power to "suspend commercial relations with the aggressive country," and even the power to "arrest a citizen of that country who may happen to be in the United States." *Id.* at 4233.

The Congressional debates are quite lengthy and a reading of them does not, despite Judge Mikva's observation in his *AIG* concurrence to the contrary, convey the sense that passion had overcome rationality. Rather, the pages of the Congressional Record reveal an articulate, reasoned and informed debate on the relevant questions of international law and Presidential power. One can only conclude that Congress' decision, in essence, to delegate its "necessary and proper" power to Presidents faced with hostage crises was well considered.

Between November 4, 1979 and January 19, 1981 the President used all means he believed "necessary and proper to obtain" release of the hostages. These included imposition of the freeze, followed, after other techniques had failed, by a carefully negotiated thaw.

It is no argument to say that the Hostage Act is old. That is so only because the hostage problem is old, and Congress had to deal with it early in our history. Should Congress wish to repeal the Hostage Act, it may do so. Until Congress acts, the President has explicit and broad delegated authority to deal with hostage crises, authority which he exercised in November 1979 and again in January 1981.

CONCLUSION

If the President's constitutional powers in foreign affairs and the specific authority delegated to him under the Hostage Act and IEEPA mean anything, they must mean that he is to have the power to use a broad and flexible panoply of tactics in order to obtain the release of hostages or to surmount comparable crises. There is nothing in the history of presidential activity in this area to suggest that the President has power to punish but not to make peace, that he has power to threaten but not to compromise, or that he may wield the stick but not—where exigent—proffer the carrot.

The consistent historical tradition set forth in the Barr chart speaks otherwise. So do the language and history of the Hostage Act and IEEPA, and so dictates the logic of any reasoned approach to effective presidential power in foreign policy.

We live in a complicated, hostile world. The United States was conceived in revolution, tested from birth by international crises not of its own making, only to emerge in an age of world war, terrorism, and nuclear blackmail. There is, fortunately, no reason to believe that the Nation's Constitution and governmental institutions are inherently unable to cope with the perils of life on this dangerous planet. Indeed, the very history recalled by the questions presented in this case evince the Founding Fathers' foresight in creating flexible yet principled government.

To attempt now, at the behest of private claimants, to strip the President of the power flexibly to deal with turbulent events, of his authority to change direction as circumstances warrant, and of his ability to make peace as well as war, would be to turn the Constitution into "a suicide pact." *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 159-60 (1963).

The decision of the District Court should be affirmed.

Dated: June 19, 1981

Respectfully submitted,

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ADDENDUM

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision[1]	Amount of Award or Settlement
November 19, 1794	Great Britain and United States	Treaty of Amity Commerce and Navigation (Jay Treaty) (1 Malloy, *Treaties, Conventions, International Acts, Protocols and Agreements Between the United States and Other Powers* 590 (1910) (hereinafter "Malloy")	a) debts owed by American citizens to British subjects; b) claims of U.S. citizens based on illegal seizures of ships and other property by British government; c) claims of British citizens based on actions of U.S. government	Mixed Commission[2]	Yes	See G.B.-U.S. Treaty, January 8, 1802 (Commission disbanded)
October 17, 1795	Spain and United States	Treaty of Friendship, Boundaries, Commerce and Navigation (2 Malloy 1640)	Maritime captures of U.S. vessels and cargoes by Spanish subjects during war	Mixed Commission	Yes	$325,440.07 to U.S. (Spanish Spoliations)

1 A treaty, executive agreement, or convention is said to have a binding provision if it contains a provision declaring the settlement mechanism specified in the agreement as a final and conclusive determination of the claims at issue.

2 A Mixed Commission consists only of representatives of the parties to the agreement.

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
December 7 and 12, 1799*	Netherlands and United States	Case of the Schooner "Wilmington Packet" (5 Miller, *Treaties and Other International Acts of the United States of America* 1075 (1937)) (hereinafter "Miller")	Claims based on seizure of ship by Dutch privateer and condemnation of the ship's cargo by Dutch prize tribunal	Lump Sum Settlement	Yes	20,000 florins to U.S.
September 30, 1800 (concluded), July 31, 1801 (ratified), and December 21, 1801 (proclaimed)	France and United States	Convention of Peace Commerce and Navigation (1 Malloy 496)	Claims of American citizens based on seizures of ships; claims of the French government against the U.S. government based on breaches of the Treaty of 1778	N/A	N/A	Renunciation of claims of American citizens against France and claims of French government against U.S. government; restoration of ships and property captured, but not yet condemned by either country

* An asterisk is placed next to each executive agreement.

January 8, 1802	Great Britain and United States	Convention for Payment of Indemnities and Settlement of Debts (1 Malloy 610)	See G.B.-U.S., Jay Treaty November 19, 1794	Lump Sum Settlement and Mixed Commission	Yes	a) Lump sum of $2,664,000 to British citizens; b) By commission: $11,656,000 to U.S., $143,428.14 to G.B.
August 11, 1802	Spain and United States	Claims Convention (2 Malloy 1650)	Mutual claims based on excesses committed by individuals of both nations during war	Mixed Commission	Yes	No award
April 30, 1803	France and United States	Convention for Payment of Sums Due by France to Citizens of the United States (1 Malloy 513)	Claims for debts owed U.S. citizens by French government for supplies, and claims based on seizures of ships and goods by France	U.S. Commission	No	Approx. 20,000,000 French francs to U.S.
October 20, 1818	Great Britain and United States	Convention Respecting Fisheries, Boundary and the Restoration of Slaves (1 Malloy 631)	Claims for slaves of U.S. citizens taken by British troops during war (based on Treaty of Ghent of 1814)	Third Party Arbitration[3] (later referred to Emperor of Russia)	Yes	See G.B.-U.S., Nov. 13, 1826

3 Third Party Arbitration involves the resolution of a claim by some entity consisting of no representatives of the parties to the agreement.

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
February 22, 1819	Spain and United States	Treaty of Amity, Settlement and Limits (2 Malloy 1651)	Florida ceded to U.S.; Mutual claims for damages or injuries suffered up to date of treaty renounced by governments; U.S. govt. agrees to pay claims of U.S. citizens up to $5,000,000	U.S. Commission	Yes	$5,454,545.13 of claims awarded pro-rata from $5,000,000 fund
July 12, 1822	Great Britain and United States	Convention for Indemnity Under Award of Emperor of Russia as to the True Construction of First Article of the Treaty of December 24, 1814 (1 Malloy 634)	Claims for slaves (see G.B.-U.S., October 20, 1818).	Mixed Commission	Yes	See G.B.-U.S., Nov. 13, 1826
March 16, 1825*	United States and Colombia	Convention for Adjusting Certain Claims (3 Miller 195)	a) claim for cargo, loss of profit, injuries and damages of owners of Schooner Liberty; b) claims for vessel, cargo, loss of profit injuries and damages of owners of the Brig Josephine and Schooner Minerva respectively; c) claim	Lump Sum Settlement	(Colombia reserved right of action against individuals whose actions may have caused the	$72,653.40 (plus interest) to U.S.

			for forfeited cargo to owner of cargo of Brig America		settled claims)	
April 19, and 22, 1825*	United States and Russia	Exchange of Notes for the Settlement of the Claim in the case of the Brig "Pearl" (3 Miller 201)	Claim for cargo bound for Northwest coast which was left at Sandwich Islands after Russia representatives ordered American Brig Pearl to leave the area	Lump Sum Settlement	Yes	$16,994.69 to U.S.
November 13, 1826	Great Britain and United States	Convention Relative to Indemnity for Slaves (1 Malloy 641)	Claims for slaves (see G.B.-U.S. October 20, 1818)	Lump Sum Settlement	Yes	$1,204,960 to U.S.
March 17, 1828*	United States and Russia	Settlement of the Claims for the Brig "Hector" and the ship "Commerce" (3 Miller 421)	a) claim of owner of Brig Hector for cost of cargo, value of brig, lost profits; b) claim of owner of ship Commerce for the ship, freight and damage—arising from capture of Hector and Commerce by vessels under the Russian flag	Lump Sum Settlement	Yes	205,731 rubles to U.S.

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
June 15, 1829*	United States and Brazil	Settlement of Claims (3 Miller 485)	13 claims of owners and shippers for losses and damages suffered by the American ships Sarah George, Rio, Ruth, Hero, Panther Nile, Amity, Hussan, Pioneer, Spermo, Telltale, Hannah and Budget which were seized by Brazilian authorities	Confirmation of 13 claims agreements entered into by Mixed Commission	Yes	Total settlement of all 13 claims from the separate claims agreements Rs. 427,259,546 ($242,845.05) to U.S.
November 25, 1829*	United States and Colombia	Convention for Adjusting Certain Claims (3 Miller 523)	a) claims of owners of Brig Josephine, owners of Schooner Ranger and their cargo for lost profit, injuries and damages resulting from seizure of ships by Colombian authorities	Lump Sum Settlement	Reserved right of owners of Brig Josephine to claim any additional interest to which they were entitled	$20,250.00 to U.S. for Josephine $5,013.59 to U.S. for Ranger
March 28, 1830	Denmark and United States	Claims Convention (1 Malloy 377)	Mutual claims for detention or confiscation of ships and other property	Lump Sum Settlement	Yes	$650,000 Spanish milled dollars to U.S.

			under the authority of either government			(3 person U.S. Bd. of Commissioners to distribute)
July 4, 1831	France and United States	Convention as to Claims and Duties on Wines and Cotton (1 Malloy 523)	Mutual claims for detention or confiscation of ships and other property by either government	Lump Sum Settlement	Yes	25,000,000 francs to U.S.; 1,500,000 francs to France (distributed by each country to its own citizens)
January 19, 1832*	United States and Portugal	Settlement of Claims (3 Miller 653)	Claims for a) the capture of 4 U.S. ships by the squadron of Portugal—the Ann, the Galatea, the Gleaner, the Planter; b) the clothing, and arrest and treatment of the crew of the Galatea	Lump Sum Settlement		Ann—$33,744.42 Galatea—$38,063.85 Gleaner—$7,250.00 Planter—$29,418.90 clothing—$1,260.20 arrest and treatment—$750.00 Total—$110,-487.37 to U.S.

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
October 14, 1832	Two Sicilies (Italy) and United States	Claims Convention (2 Malloy 1804)	Claims for detention or confiscation of ships and other property from 1809-1812	Lump Sum Settlement	Yes	2,115,000 ducats to U.S. (distributed by U.S.)
February 17, 1834	Spain and United States	Claims Convention (2 Malloy 1659)	Adjustment of mutual claims from February 22, 1819—date of this treaty	Lump Sum Settlement	Yes	12,000,000 rials vellon ($549,850.28 distributed by U.S.)
April 11, 1838	Texas (Republic) and United States	Claims Convention (2 Malloy 1779)	Claims based on seizure of ships and personal injuries by officers of govt. of Texas	Lump Sum Settlement	Yes	$11,750 to U.S. (distrib. by U.S.)
March 25, 1839*	United States and Netherlands	Settlement of the Claim for the Ship "Mary" and Her Cargo (4 Miller 179)	Claim for vessel and cargo captured by French privateer, taken to Curacao and sold there	Lump Sum Settlement	All future claims to be referred to U.S.	$62,692.00 to U.S.
April 11, 1839	Mexico and United States	Claims Convention (2 Malloy 1101)	Claims based on injuries to property and persons by Mexican authorities which had been presented to State Dept. or U.S. Ambassador to	Mixed Commission with disputes to King to Prussia	Yes	See Mexico-U.S., Feb. 2, 1848

			Mexico by the date of this convention			
July 7, 1840*	United States and Chile	Agreement for the Settlement of the First Case of the Brig "Macedonian" (4 Miller 287)	Claim for seizures of money totalling $140,000 by Chilean soldiers	Lump Sum Settlement		$104,000 to U.S.
December 10, 1840*	United States and Chile	Agreement for the Settlement of the Case of the Brig Warrior (4 Miller 325)	Claim for seizure and detention of Brig Warrior by Chilean military	Lump Sum Settlement		$15,000 to U.S.
March 17, 1841	Peru and United States	Claims Convention (2 Malloy 1386)	Claims for detention, damage, or confiscation of ships and other property by order of govt. of Peru or under its authority	Lump Sum Settlement	Yes	$421,432.41 to U.S. citizens (after adjudication by Attorney General)
October 15, 1842*	Brazil and United States	Seizure of "John S. Bryan" (5 Moore, *International Arbitrations Digest*, 4613 (1898)	Claims for damages for seizure and detention of ship	Mixed Commission	No	$3,292.07 to U.S.
January 30, 1843	Mexico and United States	Claims Convention (1 Malloy 1105)	See Mexico-U.S., April 11, 1839, and claims presented by date of this new convention	Mixed Commission	N/A	See Mexico-U.S., Feb. 2, 1848

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
February 9, 1843*	United States and New Granada	Convention for the Settlement of Claims Arising Out of the Confiscation of Part of the Cargo of the Schooner "By Chance" (4 Miller 499)	Claim for confiscation of part of cargo belonging to U.S. citizens by New Granadian government	Lump Sum Settlement	Yes	$10,150 to U.S.
February 26 and 29 and March 1, 1844*	Venezuela and United States	Arrangement for the Settlement of the Case of the Brig "Morris" (4 Miller 523)	Claim for vessel Brig Morris and its cargo which were seized by Colombian privateer and subsequently sold	Lump Sum Settlement		$18,000 to U.S.
April 22, 1844*	New Granada and United States	Convention for the Settlement of the Claim Arising out of the Loss of Part of the Cargo of the Schooner "Henrietta" (4 Miller 555)	Claims for certain cargo, owned by U.S. citizen, on the Granadian Schooner Henrietta which was captured in Granadian civil war	Lump Sum Settlement	Yes	$1,243 to U.S.
November 5, 1844*	New Granada and United States	Convention for the Settlement of the Case of the Brig "Morris" (4 Miller 663)	Claim for Brig Morris and its cargo which were seized by Colombian privateer and subsequently sold	Lump Sum Settlement	Yes	$12,756.47 1/2 to U.S.

March 29, 1845*	New Granada and United States	Convention for the Settlement of Claims Arising out of the Seizure of the Schooner "Yankee" (4 Miller 741)	Claims for imprisonment and wages of crew of the schooner Yankee, its cargo and freight charges	Mixed Commission	Yes	$10,891.00 to U.S.
November 10 and 26, 1845*	Great Britain and United States	Settlement of Claims (4 Miller 779)	Claims for excess duties levied by United States over British goods and claims for excess duties levied by Great Britain over United States goods	N/A	Yes	Each government pays claims of its own citizens
May 16, 1846*	New Granada and United States	Convention for the Final Settlement of the Case of the Brig "Josephine" (4 Miller 813)	Claims for nonpayment of certain interest suffered by those interested in the American Brig Josephine	Lump Sum Settlement	Yes	$6,569.14 to United States
November 16, 1846*	Venezuela and United States	Seizure of Brigs "Native" and "Josephine" (12 Bevans, *Treaties and Other International Agreements of the United States of America 1776-1949* at 1052 (1974)) (hereinafter "Bevans")	Claims based on seizure of cargo and ship by Venezuela	Lump Sum Settlement	Yes	$9,550 to U.S. for Native; $5,453 to U.S. for Josephine

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
February 2, 1848	Mexico and United States	Treaty of Guadalupe Hidalgo (1 Malloy 1107)	U.S. agrees to pay all claims of U.S. citizens against Mexico and discharges Mexico's obligations to U.S. citizens	U.S. Board of Commissioners	Yes	U.S. pays $3,208,314.96 to U.S. claimants
April 12, 1848*	Venezuela and United States	Convention upon the Claim Relative to the American Brig "Sarah Wilson" (12 Bevans 1056)	Claim based on detention and sale of ship and cargo by Venezuela	Lump Sum Settlement	Yes	$30,200 to U.S.
April 25, 1848*	New Granada and United States	Convention for the Settlement of the Case of the Brig "Native" (5 Miller at 437)	Claims arising out of the seizure of the Brig Native and its cargo by a Colombian vessel of war	Lump Sum Settlement	Yes	$16,000 to United States
January 27, 1849	Brazil and United States	Claims Convention (1 Malloy 144)	Claims of U.S. citizens	Lump Sum Settlement	Yes	530,000 milreis to U.S. (distributed by U.S.)
June 15, 1849*	Ecuador and United States	Settlement of Cases of Brig "Josephine" and Schooner "Ranger" (7 Bevans 308)	Claims for damages for seizure and detention of ship	Lump Sum Settlement	No Provision	$5,953 to U.S. for Josephine; $1,099 to U.S. for Ranger
July 7, 1849*	Venezuela and United States	Convention Upon the Claim Relative to the	Claim based on seizure and detention of ship	Lump Sum Settlement	Yes	$11,500 to U.S.

		American Brig "Mount Vernon" (12 Bevans 1058)	and loss of cargo			
February 9, 1850*	Ecuador and United States	Settlement of Case of Brig "Morris" (7 Bevans 310)	Claims based on capture and sale of ship by Colombian authorities	Lump Sum Settlement	Yes	$14,016 to U.S.
February 26, 1851	Portugal and United States	Claims Convention (2 Malloy 1458)	Pecuniary claims of U.S. citizens against govt. of Portugal; govt. claim for Brig Armstrong	Lump Sum Settlement (private claims); Third Party Arbitration by Pres. of France on Govt. claim	Yes	$91,727 to U.S.; no award on Brig Armstrong claim
May 1, 1852*	Venezuela and United States	Claims convention Relative to Schooner "Economy" and Others (12 Bevans 1060)	Claims based on confiscations of ships and cargoes	Lump Sum Settlement	Yes	$90,000 to U.S.
August 6, 1852*	Peru and United States	Agreement on Case of Samuel Franklin Tracy (10 Bevans 1017)	Claims based on losses sustained by Tracy for illegal arrest and for actions taken by govt. of Peru against his property	Lump Sum Settlement	Yes	$26,560 to U.S.
February 5, 1853*	Ecuador and United States	Settlement of Case of Brig "Native" (7 Bevans 312)	Claims based on seizure of ship by Colombian authorities	Lump Sum Settlement	Yes	$7,204 to U.S.

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
February 8, 1853	Great Britain and United States	Claims Convention (1 Malloy 664)	Mutual claims since The Treaty of Ghent 1814	Mixed Commission	Yes	$329,734.16 to U.S. $277,102.88 to G.B.
September 10, 1857	New Granada (Colombia) and United States	Claims Convention (1 Malloy 319)	General claims presented before Sept. 1, 1859 to the government of New Granada and claims for damages based on Panama riots of April 15, 1856	Mixed Commission	Yes	$496,235.47 to U.S.
November 8, 1858	China and United States	Claims Convention (1 Malloy 232)	General claims of U.S. citizens at ports of China	Lump Sum Settlement	Yes	$735,238.97 to U.S. (distrib. by U.S. of $489,187.95, surplus returned)
November 10, 1858	Chile and United States	Convention for Arbitration of *Macedonian* Claims (1 Malloy 183)	Claims based on seizure of silver from U.S. citizens by Chilean Admiral Cochran	Third Party Arbitration by King of Belgium	Yes	$42,400 to U.S.
January 14, 1859	Venezuela and United States	Claims Convention (2 Malloy 1843)	Claims of U.S. citizens for damages caused by their eviction from Aves Island	Lump Sum Settlement	Yes	$130,000 to U.S.

February 4, 1859	Paraguay and United States	Claims Convention (2 Malloy 1362)	Claim of United States and Paraguay Navigation Company (U.S. company) that its property was damaged by actions of Paraguay's govt.	Mixed Commission	Yes	No award
July 2, 1860	Costa Rica and United States	Claims Convention (1 Malloy 346)	Claims for property damage and personal injuries caused by authorities of Costa Rica	Mixed Commission (disputes on choice of 3rd commissioner to King of Belgium)	Yes	$25,704.14 to U.S.
November 25, 1862	Ecuador and United States	Claims Convention (1 Malloy 432)	Mutual pecuniary claims upon each government	Mixed Commission (disputes on choice of umpire to British Minister)	Yes	$94,799.56 to U.S.
December 20, 1862	Peru and United States	Claims Convention (2 Malloy 1406)	Claims based on seizure and confiscation of ships Lizzie Thompson and Georgiana by govt. of Peru	Third Party Arbitration by King of Belgium	Yes	No award

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
January 12, 1863	Peru and United States	Claims Convention (2 Malloy 1408)	Mutual pecuniary claims against each government	Mixed Commission	Yes	$57,196.23 to U.S.; $25,300 to Peru
July 1, 1863	Great Britain and United States	Treaty for Settlement of Claims with the Hudson Bay Co. (1 Malloy 688)	Claims of British companies for compensation for land given to U.S. under G.B.-U.S. Treaty of June 15, 1846	Mixed Commission	Yes	$650,000 to British companies
February 10, 1864	Colombia and United States	Claims Convention (1 Malloy 321)	Claims based on Panama riots	Mixed Commission	Yes	$88,267.88 to U.S.
May 4, 1864*	Salvador and United States	Government Monopoly, Arbitration of Claim of Mr. Savage. (2 Moore 1855)	Personal claim for gunpowder that was nationalized	Third Party Arbitration by Guatemala	N/A	$4,497.50 to U.S. (to Savage)
April 25, 1866	United States and Venezuela	Claims by Citizens of the United States against the Government of Venezuela (2 Malloy 1856)	Pecuniary claims of U.S. citizens	Mixed Commission (disputes on choice of umpire to Russia or Switz.)	Yes	$1,253,310.30 to U.S.
July 4, 1868	Mexico and United States	Claims Convention (2 Malloy 1128)	Mutual pecuniary claims for injuries to persons and property by authori-	Mixed Commission	Yes	$4,125,622.20 to U.S.; $150,498.41 to

			ties of either country since Treaty of Guadalupe Hidalgo in 1848			citizens of Mexico
December 4, 1868	Peru and United States	Claims Convention (2 Malloy 1411)	Mutual pecuniary claims since 1863 Commission	Mixed Commission (Disputes to 3rd Nation)	Yes	$194,417.62 to U.S.; $57.040 to Peru
March 14, 1870*	Brazil and United States	Protocol for Submission to Arbitration of Claim Over the "Canada" (5 Moore 4687)	Claim based on seizure of ship and sale of cargo by Brazil	Third Party Arbitration by British Ambassador	Yes	21,150 pounds to U.S.
May 25–June 16, 1870*	Spain and United States	Detention of Ship, "Colonel Lloyd Aspinwall" (2 Moore 1007)	Claim based on detention of ship	Mixed Commission	No	$19,702.50 to U.S.
February 12, 1871*	Spain and United States	Agreement for Settlement of Certain Claims of Citizens of U.S. on Account of Wrongs and Injuries Committed by Authorities of Spain in the Island of Cuba (2 Malloy 1661)	Claims arising out of Cuban insurrection for damages to property and injuries to persons by authorities of Spain	Mixed Commission	Yes	$1,293,450.55 to U.S.

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
May 8, 1871	Great Britain and United States	Treaty of Washington (1 Malloy 700)	Alabama claims based on British failure to maintain neutrality in Civil War and mutual pecuniary claims after Civil War	Joint Commission[4]	Yes	$1,929,819 to Great Britain; $15,500,000 to U.S.
December 6, 1873*	Chile and United States	Protocol for Submission to Arbitration of Claim for the Ship "Good Return" (2 Moore 1466)	Claims based on seizure of ship	Third Party Arbitration by Italian Consul in Chile, then lump sum settlement	No Provision	$18,229.16 to U.S.
August 17, 1874*	Colombia and United States	Seizure and Detention of Ship "Montijo" (5 Moore 4698)	Claims based on seizure and detention of ship	Mixed Commission	Yes	$33,401 to U.S.
February 27, 1875*	Spain and United States	Agreement — The Steamer Virginius (2 Malloy 1664)	Claims based on seizure of ship	Lump Sum Settlement	Yes	$80,000 (to be distributed by U.S. government)
January 15, 1880	France and United States	Claims Convention (1 Malloy 535)	Mutual pecuniary claims based on actions of either country during a)	Joint Commission	Yes	$625,566.35 to France, 13,659 francs to U.S.

4 A Joint Commission consists of representatives of the parties to an agreement and a representative of at least one other nation.

			Franco-German War of 1870-71, b) the "Insurrection of the Commune", c) the France-Mexico War			
May 28, 1881*	Great Britain and United States	Claims of American Fisherman (1881 Foreign Relations of the United States 591)	Claims based on disturbance of Amer. fishing operations by British subjects in Newfoundland	Lump Sum Settlement	Yes	$15,000 to U.S.
1884 (award May 24, 1884)	China and United States	Ashmore Fishery Claim (2 Moore 1857)	Claim for compensation for giving up title to fishery ground	Third Party Arbitration by Ambassadors from G.B. and Netherlands	No Provision	$4,600 to U.S. (to Ashmore)
May 28, 1884*	Haiti and United States	Protocol of an Agreement for Submission to an Arbitration of the Claims of Pelletier and Lazare against Haiti (1 Malloy 932)	Claims for illegal arrest, seizure of properties, and breach of contract by Haitian authorities	U.S. Arbitrator	Yes	$57,250 to Pelletier, $117,500 to Lazare (both set aside by U.S. Sec. of State)
November 17-25, 1884*	Spain and United States	Detention and Sale of Ship "Masonic" (2 Moore 1055)	Claims based on detention and sale of ship	Third Party Arbitration	No Provision	$51,674.07 to U.S.

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
January 25, 1885*	Haiti and United States	Civil Disturbances (2 Moore 1859)	Claims against Haiti for property damage and personal injury after riots	Mixed Commission	No Provision	$14,700 to U.S.
December 5, 1885	United States and Venezuela	Claims Convention (2 Malloy 1858)	Pecuniary claims of U.S. citizens	Mixed Commission disputes over choice of 3rd Comm. to Russia or Switz.	Yes	$980,572.60
December 5, 1885 and October 5, 1888	Venezuela and United States	Review Commission (2 Malloy 1858 and 1866)	Pecuniary claims of U.S. citizens	Extension of prior commission	Yes	See U.S.-Venezuela Dec. 5, 1885
November 29, 1886 and December 7, 1886	Spain and United States	Claim of Antonio Maximo Mora (Moore, *Treaties and Executive Agreements*, 1905 Political Science Quarterly 385)	Claim of individual based on embargo of his property in Cuba	Lump Sum Settlement		$1,500,000 to U.S.
April 9, 1888	Morocco and United States	Illegal Arrest (Darby, *International Tribunals*	Claim based on arrest of American consul by	Mixed Commission		

		505 (3rd ed. 1900)) (hereinafter "Darby")	Moorish authorities			
May 24, 1888*	Haiti and United States	Protocol of an Agreement for Submission to an Arbitrator of the Claim of Charles Adrien Van Bokkelen (2 Moore 1813; 1 Malloy 935)	Claim based on arrest and imprisonment	Referee	Yes	$60,000 to U.S.
December 6, 1888	Denmark and United States	Agreement Submitting Claim of Carlos Butterfield & Co. to Arbitration (1 Malloy 387)	Seizure and detention of ships Ben Franklin and Barque Catherine Augusta by the authorities of the island of St. Thomas of the Danish West Indies	Third Party Arbitration by British Ambassador in Greece	Yes	No Award
August 13, 1890	Great Britain and United States and Portugal	Railway Concession (Darby 506)	British and U.S. claims based on rescission of railway concession and seizure of the railroad by Portuguese govt.	Third Party Arbitration by Swiss Confederation		28,000 pounds (on account) to U.S. and G.B.
June 13, 1891*	United States and Great Britain vs. Portugal	Protocol Between the United States, Great Britain, and Portugal in Reference to Arbitration of Claims Against Portugal (2 Malloy 1460)	British and U.S. claims based on recission of railway concession by Portugal	Third Party Arbitration by Swiss confederation	Yes	15,314,000 Swiss francs to G.B. and U.S.

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
January 19, 1892	United States and Venezuela	Claims Convention—Venezuelan Steam Transportation Company (2 Malloy 1868)	Claims based on seizure of ships and other property, and imprisonment of U.S. citizens	Mixed Commission (with 3rd Nation)	No	$141,800 to U.S.; $300 to Venezuela
August 7, 1892, May 24, 1897	Chile and United States	Claims Convention (1 Malloy 185)	Mutual pecuniary claims based on acts of civil or military authorities of either country	Mixed Commission	Yes	$240,564 to U.S.
February 28, 1893	Ecuador and United States	Claims Convention—Julio R. Santos (1 Malloy 438)	Claim of individual based on wrongful imprisonment and injuries to person and property by authorities of Ecuador	Third Party Arbitration by British Ambassador in Ecuador	Yes	$40,000 to U.S.
March 2, 1897*	Mexico and United States	Protocol Concerning Claims of Oberlander and Messenger (2 Malloy 1180)	Claims based on personal injuries to Oberlander and Messenger by Mexican citizens	Third Party Arbitration by Minister of Argentina at Madrid	Yes	No award
May 24, 1897*	Chile and United States	Claims Protocol (1 Malloy 190)	Claim of Patrick Shields for personal damages	Lump Sum Settlement of individual claim	Yes	$3,500 to U.S.

June 14, 1897	Ecuador and United States	Guayaquil and Quito Railway Co.	Claims of U.S. citizens based on spoliation of property and property rights by virtue of taking by Ecuador of the railway	Mixed Commission	No Provision	
July 26, 1897*	Siam and United States	Protocol Concerning Claim of Cheek (Darby 514)	Claim of Cheek based on seizure of property and interference with his teak concession; claim of Siam based on breach of loan agreement	Third Party Arbitration by Chief Justice of G.B.'s Sup. Ct. for China and Japan	Yes	706,721 tieals to U.S. ($200,000)
September 20, 1897 (date of award)	Siam and United States	Military Assault (Darby 514)	Claim based on attack by Siamese soldiers on Mr. E.V. Kellet	Mixed Commission		In favor of U.S.
February 1898*	Dominican Republic and United States	Ozama River Bridge (7 Bevans 183)	Claim based on interference by Dominican Rep. govt. with concession to build and operate a bridge	Mixed Commission	No Provision	$74,411.17 to U.S.
May 17, 1898*	Peru and United States	Protocol of an Agreement for the Arbitration of the Amount of Damages to be Awarded in Favor of Victor H. MacCord (2 Malloy 1443)	Claim for personal injuries caused by Peruvian authorities	Third Party Arbitration by Chief Justice of Canada	Yes	$40,000 to U.S.

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
December 10, 1898	Spain and United States	Treaty of Peace (2 Malloy 1690)	Mutual claims arising out of insurrection in Cuba—Spain and U.S. mutually relinquish all claims of their citizens against each other	N/A	Yes	U.S. to pay all claims of its citizens
October 18, 1899 and June 30, 1900*	Haiti and United States	Protocol of an Agreement Between the United States and Haiti, For The Arbitration of the Question of the Liability and Amount of Damages to be Awarded John D. Metzger and Company (8 Bevans 646)	Claims for seizure and sale of goods, and for breach of contract for sale of lumber by Haitian govt.	U.S. Arbitrator	Yes	$23,000 to U.S.
November 7, 1899	Germany, Great Britain, and United States	Convention Between United States, Germany and Great Britain Relating to Settlement of Samoan Claims (2 Malloy 1589)	Personal claims based on military action of the three nations in the Samoan Island	Third Party Arbitration by King of Norway and Sweden	No	U.S. and G.B. responsible for losses
February 23, 1900 and May 10, 1900*	Guatemala and United States	Protocol of an Agreement Submitting to Arbitration The Claim of Robert H. May Against	Mutual claims based on contracts in connection with the Guatemala Northern Railroad	Third Party Arbitration by British Consul to	Yes	$143,750.73 to U.S.

		Guatemala and the Claim of Guatemala Against Said May (1 Malloy 871 and 873)	(claim of May was against Guatemalan govt.)	Guatemala		
March 22, 1900*	Nicaragua and United States	Protocol of an Agreement for the Arbitration of the Amount of Damages to be Awarded Orr and Laubenheimer and the Post-Glover Electric Company (2 Malloy 1290)	Claims based on seizures of property by Nicaragua, including ships Buena Ventura and Alerta and other goods	Third Party Arbitration	Yes	$6,963 to Orr, $1,402.94 to Company
September 8, 1900*	Russia and United States	Claims Protocol (2 Malloy 1532)	Claims based on seizure of ships James Hamilton Lewis, C.H. White, Kate and Anna, Cape Horn Pigeon	Third Party Arbitration by Mr. Asser of the Netherlands	No	$38,650 to Pigeon, $28,588 to Lewis, $32,444 to White, $1,448 to Kate
September 7, 1901*	United States and China	Boxer Claims (1 Bevans 302)	Claims for damages to property and persons (protocol covered claims of Germany, Austria-Hungary, Belgium, Spain, France, G.B., Italy, Japan, Netherlands, Russia, and United States)	U.S. Commission (for American claimants)	No Provision	Total of 450,000,000 taels to all powers (some to U.S. claimants)

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
December 19, 1901*	Salvador and United States	Protocol for the Arbitration of Certain Claims Against Salvador (2 Malloy 1568)	Claims of Salvador Commercial Co. and other U.S. citizens for damages	Joint Commission	Yes	$537,178.64 to claimants
February, 1902*	Salvador and United States	Claim of Rosa Gelbtrunk (1902 Foreign Relations of the United States 873)	Claim of Rosa Gelbtrunk	Joint Commission	No Provision	No Award
April 28, 1902*	Dominican Republic and United States	Arbitration of Sala Claim (7 Bevans 184)	Claim of Madam de Sala as surviving partner of J. Sala & Co. for debts owed by Dominican Government	Mixed Commission	No Provision	$215,812.95
May 22, 1902*	Mexico and United States	Protocol for the Adjustment of Certain Contentions Arising Under What is Known as the "Pious Fund of the Californias" (2 Malloy 1194)	Claim for interest upon an annual fund	Mixed Commission and umpire from the Hague	Yes	$1,420,682.67 lump sum and $43,050.99/year to U.S.
September 6, 1902*	United States and Brazil	Protocol Submitting to Arbitration the Claim of George C. Benner et al. (1 Malloy 152)	Claim based on damage to vessel James A. Simpson from shooting by Brazilian soldiers	Third Party Arbitration by Swedish Envoy to U.S.	Yes	No award

January 31, 1903*	Dominican Republic and United States	Arbitration Protocol—Claim of San Domingo Improvement Co. (1 Malloy 414)	Claim for damages for withdrawal of Co. from Dominican Republic; indemnity for relinquishment of rights, properties, and interests	Lump sum settlement and Arbitration of Terms	Yes	$4,500,000 to U.S., relinquishment by Co. of all rights, properties and interest
February 17, 1903*	United States and Venezuela	Protocol with Venezuela Submitting to Arbitration Claims Against Venezuela (2 Malloy 1870)	Claims of U.S. citizens	Mixed Commission (umpire named by Queen of Netherlands)	Yes	$2,313,711.37
May 7, 1903*	Venezuela and Great Britain, United States, et al.	Protocols of Agreements Respecting the Reference of the Question of the Preferential Treatment of Claims to the Tribunal at the Hague (2 Malloy 1872)	Order of preference between nations (choice between Blockading Powers and Creditor Powers)	Arbitration by Tribunal at the Hague (chosen by Emperor of Russia)	Yes	Germany, G.B. and Italy get preference from 30% of Venezuelan customs revenues
November 25, 1904*	Honduras and United States	Cases of Charles W. Renton and Jacob Baiz (8 Bevans 888)	Claims of U.S. citizens	Lump Sum Settlement	Yes	120,000 pesos to U.S.

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
February 13, 1909*	Venezuela and United States	Claims Protocol (2 Malloy 1881)	Claims of U.S. companies (Orinoco Steamship Co., Orinoco Corporation, and United States and Venezuela Company) based on contracts for mining in Venezuela	3 Arbitrators from Permanent Court of Arbitration at the Hague	Private Settlement Allowed	$475,000 to U.S. and Venezuela Company; $385,000 to Orinoco Company
May 25 and September 18, 1909*	Nicaragua and United States	Protocol for Arbitration of the Claim of the George D. Emery Company (10 Bevans 365)	Claim for damages based on annulment of timber concession by govt. of Nicaragua	Mixed Commission (disputes over choice of 3rd comm. to King of G.B.); then Lump Sum Settlement	Yes	$600,000 to U.S.
December 1, 1909*	United States and Chile	Protocol for Arbitration of the Alsop Claim (6 Bevans 548)	Claim of Alsop & Co. for property losses	Third Party Arbitration by King of G.B.	Yes	2,275,375 bolivanos to U.S.
August 18, 1910	Great Britain and United States	Special Agreement for the Submission to Arbitration of Pecuniary Claims (3 Malloy 2619)	Mutual pecuniary claims based on denials of property rights, alleged wrongful collection of	Mixed Commission (disputes over choice	Yes	

			customs duties and other charges, and damages to property or persons by the military of either nation	of Umpire to the Hague)		
January 28, 1911*	China and United States	Agreement in Settlement of Changsha Indemnity Claims (3 Malloy 2512)	Claims of U.S. citizens after disturbances in Hunan province led to property damage	Specified Individual Settlements	Yes	$74,392.53 (or 53,934.58 Hankow taels)
April 4, 1911	Nicaragua and United States	Claims Commission (U.S. For. Rel. 1911-631; 10 Bevans 374)	Claims for damages based on abolition of monopolies, concessions, and leases by Nicaragua	Mixed Commission	No Provision	3 awards to Nicaragua, rest to U.S.
November 27, 1915*	Panama and United States	Protocol Providing for the Determination of the Amount of Damages Caused by the Riot at Panama City, July 4, 1912 (3 Malloy 2778)	Claims for deaths and injuries due to riot, Panama concedes liability, issue as to damages	Third Party Arbitration by Netherlands	Yes	$12,500 to U.S.
October 3, 1919*	Haiti and United States	Protocol for the Establishment of a Claims Commission (3 Malloy 2678)	Pecuniary claims of U.S. citizens and subjects	Joint Commission	No	Payable out of $40,000,000 national loan
May 21, 1921*	Peru and United States	Protocol for the Arbitration of the Landreau Claim Against Peru (3 Malloy 2797)	Claims for rewards owed for discovery of guano deposits and for breach of contract by govt. of Peru	Joint Commission	Yes	$125,000 to U.S.

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
August 10, 1922*	Germany and United States	Agreement for a Mixed Commission to Determine the Amount to be Paid by Germany in Satisfaction of Germany's Financial Obligations under the Treaty Concluded Between the Two Governments on August 25, 1921 (3 Malloy 2601)	Claims based on treaty of peace for damage to or loss of property, and debts	Mixed Commission	Yes	More than $265,939,068.37 to U.S.
September 8, 1923	Mexico and United States	General Claims Convention (U.S. Treaty Series, 678; 4 Malloy 4441)	Mutual pecuniary claims for losses or damages to persons or property since July 4, 1868	Mixed Commission (disputes over choice of 3d commission to the Hague)	Yes	
September 10, 1923	Mexico and United States	Special Claims Convention for the Settlement of Claims of American Citizens Arising from Revolutionary Acts in Mexico from November 20, 1910 to May 31, 1920 (U.S. Treaty Series, 676; 4 Malloy 4445)	Claims for losses or damages to persons or property arising out of the revolution in Mexico	Mixed Commission (disputes over choice of 3d commissioner to the Hague)	Yes	See U.S.-Mex., April 24, 1934

December 24, 1923*	Turkey and United States	American Claims (H.R. Doc. No. 283, 73d Cong., 2 Sess. p. 3; 11 Bevans 1105)	Mutual pecuniary claims of nationals of both countries	Mixed Commission	No Provision	$1,300,000 to U.S.
November 26, 1924*	Austria-Hungary and United States	Agreement Concerning Obligations (U.S. Treaty Series, 730; 4 Malloy 3928)	Claims of U.S. nationals for damage or seizure of property, death or injury of persons, and debts	Third Party Arbitration	Yes	$370,032.14 to U.S. from Austria; $443,-588.79 to U.S. from Hungary
July 28, 1926	Panama and United States	Convention on Claims (4 Malloy 4546; U.S. Treaty Series No. 842)	Mutual pecuniary claims based on losses or damages to persons or property since Nov. 3, 1903; Claims for losses of U.S. citizens due to fire in the city of Colon on March 31, 1885)	Mixed Commission; Joint Commission (with Colombia for Colon fire)	Yes	
January 2, 1927	Cuba and United States	Attempted Expropriation of Property	Claims of Smith for land seizure	U.S. Arbitrator	No Provision	$190,000 to U.S.
May 19, 1927*	Great Britain and United States	Arrangement for the Disposal of Certain Pecuniary Claims Arising Out of the Recent War (Detention of the S.S. "Lisman", Capture of U.S.S.S. "Edna", Capture of U.S.S.S. "Seguranca") (4 Malloy 4256)	Mutual agreement not to present claims of nationals, and to use funds saved to pay such claims of a country's own nationals	N/A	N/A	

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
March 30, 1928*	China and United States	American Claims for Acts of Chinese Soldiers (MSS Dept. of State)	Claims based on damages to persons and property by Chinese soldiers	Mixed Commission		$443,588.79 to U.S.
June 20, 1929*	Spain and United States	Outstanding Claims (Executive Agreement Series #18; 11 Bevans 687)	Mutual claims	Mixed Commission	No Provision	
October 1, 1929*	Cuba and United States	Indemnity for Damages (49 Arbitration Series #1; MSS Dept. of State)	Claim of Charles Harrah for wrongful destruction of his property by Cuban authorities	Mixed Commission		$350,000 to U.S.
November 22, 1929*	Guatemala and United States	Case of P. W. Shufeldt (8 Bevans 507)	Claims of breach of contract for illegal cancellation of concession for extraction and exportation of chicle against the govt. of Guatemala	Third Party Arbitration by Chief Justice of Sup. Ct. of British Honduras	No Provision	$225,468.38 to U.S
January 20, 1931*	Egypt and United States	Damages Resulting from Acts of the Egyptian Authorities against George J. Salem (Executive Agreement Series #33)	Claim of Salem for mistreatment by Egyptian authorities and courts	Mixed Commission		No award

November 16, 1933*	U.S.S.R. and United States	Litvinov Assignment (11 Bevans 1257)	U.S. gives up claims based on Soviet nationalizations of property of U.S. nationals; U.S.S.R. assigns to U.S. amounts that may be due from U.S. nationals to U.S.S.R.	N/A	N/A	N/A
April 24, 1934	Mexico and United States	Convention Providing for En Bloc Settlement of Special Claims (5 Malloy 4487)	General claims of U.S. nationals from Special Claims Convention of Sept. 10, 1923	Lump Sum Settlement	Yes	Based on percentage Mexico recovered from other nations
April 10, 1935	Mexico and United States	Claims Arising from Revolutionary Acts (Amer. J. Int'l Law, Off. Doc. 1938-107)	Claims of U.S. nationals except those from other settlements	U.S. Claims Commission	No Provision	
April 15, 1935	Canada and United States	Claims: Damages Resulting From Operation of Smelter at Trial, British Columbia (6 Bevans 60)	Claims based on damages caused by fumes from smelter of the Consolidated Mining and Smelting Co.	Lump Sum Settlement (for damages prior to Jan. 1, 1932); Mixed Commission	No Provision	$350,000 to U.S. for pre-Jan. 1, 1932 damages; No award for post-Jan. 1, 1932 damages

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
November 9, and 12, 1938*	Mexico and United States	Compensation for Expropriated Lands (9 Bevans 1038)	Claims based on expropriations of agrarian land by Mexican govt.	Mixed Commission	No Provision	See U.S.-Mexico Nov. 19, 1941
November 19, 1941	Mexico and United States	Final Settlement of Certain Claims (9 Bevans 1059)	Claims filed by U.S. and Mexico with commission established Sept. 8, 1923; agrarian claims of U.S. nationals against govt. of Mexico which arose between Aug. 30, 1927 and Oct. 7, 1940; mutual claims for property damage caused by acts of either govt. between Jan. 1, 1927 and Oct. 7, 1940	Lump Sum Settlement	Yes	$40,000,000 to U.S.
November 19, 1941*	Mexico and United States	Expropriation of Petroleum Properties (9 Bevans 1055)	Claims based on right to compensation for expropriation of petroleum properties by Mexico	Experts from Both Countries	Yes	See U.S.-Mexico Sept. 25 and 29, 1943
Sept. 15 and 29, 1943	Mexico and United States	Payment for Expropriated Petroleum Properties (9 Bevans 1150)	See U.S.-Mexico Nov. 19, 1941	Lump Sum Settlement	Yes	$23,995,991 to U.S.
August 14, 1947	Italy and United States	Agreement on Claims of U.S. Nationals (The	Claims of U.S. nationals arising out of WWII	Mixed Commission	No Provision	$5,000,000 to U.S. (claims

		Lombardo Agreement) (61 Stat. 3988; 36 U.N.T.S. 105)	against both Italy and Italian nationals			determined by Foreign Claims Settlement Commission (FCSC))
July 19, 1948*	Yugoslavia and United States	Agreement Regarding Pecuniary Claims of the United States and its Nationals (Lillich and Weston, International Claims: Their Settlement by Lump Sum Agreements, Part II, 10 (hereinafter "Lillich and Weston"); 62 Stat. 2658, T.I.A.S. No. 1803)	Claims of U.S. nationals based on nationalizations and other takings by Yugoslavia of property of U.S. nationals	Lump Sum Settlement	Yes	$17,000,000 to U.S. (U.S. claims determined by International Claims Commission (ICC) and later by FCSC)
January 26, 1950	Panama and United States	Agreement Regarding Pecuniary Claims (Lillich and Weston, 35; 1 U.S.T. 685, T.I.A.S. No. 2129)	Mutual claims: Panama claim for fire damage; U.S. claims of injuries, seizures of property, and nationalizations	Lump Sum Settlement	Yes	$53,800 to Panama; $3,156 to U.S. for injuries; $400,000 to U.S. for property (claims determined by ICC and FCSC)

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
February 27, 1953	Germany and United States	Settlement of Indebtedness of Germany for Awards Made by the Mixed Claims Commission (4 U S.T. 908; T.I.A.S. 2796)	Claims based on bonds issued for pre-war indebtedness of Germany to U.S. nationals	Lump Sum Settlement	Yes	$97,500,000 to U.S.
March 30, 1960*	Rumania and United States	Agreement Relating to Financial Questions Between the Two Countries (Lillich and Weston, 217; 11 U.S.T. 317; T.I.A.S. No. 4451)	Claims of U.S. nationals based on contracts acquired prior to Sept. 1, 1939 and payable prior to Sept. 15, 1947, and nationalizations and other takings by Rumania of property of U.S. nationals	Lump Sum Settlement	Yes	$24,526,370 to U.S. ($22,026,-370 from blocked assets) ($2,500,000 in 5 annual installents) (claims determined by FCSC)
July 16, 1960*	Poland and United States	Agreement on Claims of United States Nationals (Lillich and Weston, 227; 11 U.S.T. 1953; T.I.A.S. No. 4545)	Claims of U.S. nationals based on nationalizations and other takings by Poland of property of U.S. nationals; and debts owed by nationalized enterprises	Lump Sum Settlement	Yes	$40,000,000 to U.S. (in 20 annual installments) (claims determined by FCSC)

July 2, 1963*	Bulgaria and United States	Agreement on Claims of United States Nationals (Lillich and Weston, 266; 14 U.S.T. 969; T.I.A.S. No. 5387)	Claims of U.S. nationals based on contracts, and nationalizations by Bulgaria of property of U.S. nationals	Lump Sum Settlement	Yes	$3,543,398 to U.S. ($3,143,-398 from blocked assets) (claims determined by FCSC)
November 5, 1964*	Yugoslavia and United States	Agreement on Claims of United States Nationals (Lillich and Weston, 308; [1965] 1 U.S.T. 1; T.I.A.S. No. 5750)	Claims of U.S. nationals based on nationalizations by Yugoslavia of property of U.S. nationals between July 19, 1948 and date of this agreement	Lump Sum Settlement	Yes	$3,500,000 to U.S. (5 annual installments)
March 25, 1965	Canada and United States	Agreement Concerning the Establishment of an International Arbitral Tribunal to Dispose of United States Claims Relating to Gut Dam (17 U.S.T. 1566; T.I.A.S. 6114)	Damages caused to real property of U.S. citizens by construction and maintenance of Dam	Mixed Commission (disputes over choice of 3rd member to Int'l Ct. of Justice)	No (claimant may accept decision of tribunal as final)	See U.S.-Canada, Nov. 18, 1968
November 18, 1968*	Canada and United States	"Gut Dam" Settlement (Lillich and Weston, 360; 19 U.S.T. 7863; T.I.A.S. No. 6624)	See above	Lump Sum Settlement	No	$350,000 to U.S.

Date	Parties	Title of Agreement	Description of Claims	Form of Tribunal	Binding Provision	Amount of Award or Settlement
April 18, 1969*	Japan and United States	Agreement Concerning the Trust Territory of the Pacific Islands (20 U.S.T. 2654; T.I.A.S. No. 6724)	Claims of nationals of U.S. trust territory of the Pacific Islands arising out of WWII	Lump Sum Settlement	Yes	$5,000,000 from U.S. to trust territory; $5,000,000 from Japan to trust territory
March 6, 1973*	Hungary and United States	Agreement Regarding the Settlement of Claims (24 U.S.T. 511; T.I.A.S. 7569)	Claims of U.S. nationals based on contracts acquired prior to Sept. 1, 1939 and payable prior to Sept. 15, 1947, and nationalizations by Hungary of property of U.S. nationals	Lump Sum Settlement	Yes	$18,900,000 to U.S. (also Hungary drops claim for $3,318,614 in blocked assets) (claims determined by FCSC)
February 19, 1974*	Peru and United States	Claims Settlement (25 U.S.T. 227; T.I.A.S. 7792)	Claims of U.S. nationals and Peru based on road construction contracts; claims of U.S. nationals of nationalizations and expropriations by Peru of property of U.S. nationals	Lump Sum Settlement	Yes	$76,000,000 to U.S. (distrib. by U.S. Sec. of State); Peru drops claims against U.S. nationals

May 1, 1976*	Egypt and United States	Claims Settlement (27 U.S.T. 4214; T.I.A.S. 8446)	Claims of U.S. nationals based on Egyptian nationalizations and expropriations of property of U.S. nationals	Lump Sum Settlement	Yes	$10,000,000 to U.S. (six semiannual installments) distrib. by U.S. as it chooses
September 22, 1976*	Peru and United States	Agreement Regarding Claim of Marcona Mining Company (27 U.S.T. 3993; T.I.A.S. 8417)	Claim based on nationalization of assets of Marcona Mining Co. by Peru	Lump Sum Settlement	Yes	$61,440,000 to U.S.
May 11, 1979*	People's Republic of China and United States	Agreement Concerning the Settlement of Claims (T.I.A.S. No. 9306 (1979))	Claims of U.S. nationals based on Chinese nationalizations and expropriations of property of U.S. nationals between October 1, 1949 and May 11, 1979	Lump Sum Settlement	Yes	$80,500,000 to U.S. (accompanied by release of blocked assets)
May 19, 1979*	Egypt and United States	Agreement Concerning the Settlement of Claims (T.I.A.S. No. 9589)	Claims of U.S. nationals reserved by May 1, 1976 Egypt-U.S. agreement	Lump Sum Settlement	Yes	$100,000 to U.S.